

## § 201.35

## 19 CFR Ch. II (4–1–04 Edition)

meeting, or portion thereof, to the public, following a public notice, as permitted under § 201.37(b) of this subpart, are not considered to constitute a meeting or portion of a meeting under paragraph (a)(1) of this section.

(b) The terms *Secretary* and *General Counsel* mean the Secretary and General Counsel of the Commission and their respective designees within their respective offices.

### § 201.35 Notices to the public.

(a) At least seven (7) days before each Commission meeting the Commission shall issue a public notice which:

(1) States the time and place of the meeting;

(2) Lists the subjects or agenda items to be discussed at the meeting;

(3) States whether the meeting or portion thereof is to be open or closed to public observation; and

(4) Gives the name and business phone number of the Secretary to the Commission.

(b) When the Commission has voted to close any portion of any meeting in accordance with § 201.36 of this subpart, the notice referred to in paragraph (a) of this section shall also include, or be amended to include, if already issued, (1) A list of the persons reasonably expected to be present at such closed portion or portions of the meeting, (2) A corresponding list of the affiliations of those persons reasonably expected to be present, (3) A written copy of the vote of each Commissioner on whether or not the portion or portions of the meeting or series of meetings should be closed to public observation, (4) A full, written explanation of the Commission's action in closing the portion or portions of the meeting or series of meetings, and (5) A copy of the certification of the General Counsel, called for by § 201.39 of this subpart, that such portion or portions of the meeting or series of meetings were properly closed to the public by the Commission. When a vote to close a portion or portions of a meeting in accordance with § 201.36 of this subpart or a vote to change the subject matter of a meeting or to change a determination to open or close a meeting, or portion thereof, to the public in accordance with § 201.37(b) of this subpart fails for lack of a major-

ity of the entire membership of the Commission, the vote shall also be published as part of the notice required by paragraph (a) of this section.

(c)(1) The 7-day period for public notice provided for in paragraph (a) of this section shall not apply when a majority of the entire membership of the Commission determines by recorded vote that Commission business requires that a particular meeting be called with less than 7 days' notice and that no earlier announcement of such meeting was possible.

(2) When the Commission has voted in conformity with paragraph (c)(1) of this section to shorten the 7-day period for public notice provided for by paragraph (a) of this section with respect to a particular meeting, the Commission shall issue the public notice required by paragraph (a) of this section at the earliest practicable time.

(3) When the Commission not only has voted in conformity with paragraph (c)(1) of this section to shorten the 7-day period for public notice provided for in paragraph (a) of this section with respect to a particular meeting, but also has voted to close a portion or portions of such meeting in accordance with § 201.36 of this subpart, the public notice required by paragraph (c)(2) of this section shall also include, or be amended to include, if already issued, those items specified in paragraph (b) of this section.

(d)(1) When the Commission has changed the time or place of a publicly announced meeting by acting under § 201.37(a) of this subpart, the public notice required by paragraph (a) or (c)(2) of this section shall be amended to reflect such changed time or place.

(2) When the Commission has changed the subject matter of a meeting or its determination to open or close a meeting, or portion thereof, to the public following a public notice by acting under § 201.37(b) of this subpart, the public notice required by paragraph (a) or (c)(2) of this section shall be amended to (i) Include a statement affirming that Commission business required the change in subject matter and that no earlier announcement of such change was possible and (ii) Indicate the change in subject matter and

the vote of each Commissioner upon such change.

(e)(1) The Secretary shall issue the public notices required by this section and such amendments thereto as are appropriate to the specific meeting to which they pertain.

(2) The Secretary (i) Shall promptly post the public notices referred to in paragraph (e)(1) of this section on bulletin boards outside the Office of the Secretary to the Commission, (ii) Shall make copies thereof available to interested members of the public, including mailing copies thereof through a mailing list of those persons desiring to receive such notices and distributing copies to the press, whether of specialized or general readership, and (iii) Shall immediately submit said public notices to the FEDERAL REGISTER for publication.

(3) The Office of the Secretary shall respond to all questions from the public concerning the agendas of Commission meetings. Persons desiring to receive copies of notices of Commission meetings should contact the Office of the Secretary and request to be placed on the mailing list.

[42 FR 11243, Feb. 28, 1977, as amended at 58 FR 64121, Dec. 6, 1993]

**§ 201.36 Closing a portion or portions of a meeting or a series of meetings.**

(a) Every meeting of the Commission shall be open to public observation except when the Commission properly determines in the manner specified in paragraph (d) of this section that a portion or portions of a Commission meeting shall be closed to the public for the specific reasons enumerated in paragraph (b) of this section.

(b) The Commission may close a portion or portions of a Commission meeting only when it determines that public disclosure of information to be discussed at such meeting is likely to:

(1) Disclose matters that are (i) Specifically authorized under criteria established by Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act), provided that such statute (i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law-enforcement purposes, or information which, if written, would be contained in such records, but only to the extent that the production of such records or information would: (i) Interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or to an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, or (iv) disclose the identity of a confidential source, and, in the case of a record compiled by a criminal law-enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national-security intelligence investigation, confidential information furnished only by the confidential source;

(8)(i) Disclose information the premature disclosure of which would, in those instances where the Commission regulates commodities, be likely to lead to significant financial speculation in such commodities;

(ii) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Commission action except (A) When the Commission has already disclosed to the public the content or nature of its proposed action or (B) when the Commission is required by law to make such disclosure on its own initiative prior to taking final Commission action on such proposal; or